

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

**IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION**

**MDL 2724
16-MD-2724**

THIS DOCUMENT RELATES TO:

*CVS Pharmacy, Inc. vs. Actavis Elizabeth,
LLC, et al.*

HON. CYNTHIA M. RUFÉ

Individual Case No.: 20-6310

ORDER

AND NOW, this 11th day of February 2021, upon consideration of the attached Joint Stipulation, it is hereby **ORDERED** that the Stipulation is **APPROVED**. Pursuant to the terms of the Stipulation, all claims against Endo Health Solutions Inc., Endo International plc, and Endo Pharmaceuticals Inc. are hereby **DISMISSED without prejudice**, with each party to bear its own costs and attorneys' fees.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

**MDL 2724
16-MD-2724**

THIS DOCUMENT RELATES TO:

*CVS Pharmacy, Inc. vs. Actavis Elizabeth,
LLC, et al*, 2:20-cv-06310

HON. CYNTHIA M. RUFÉ

Individual Case No.: 2:20-cv-06310-CMR

JOINT STIPULATION

WHEREAS, Plaintiff CVS Pharmacy, Inc. filed a complaint on December 15, 2020, in the action *CVS Pharmacy, Inc. v. Actavis Elizabeth, LLC, et al.*, Case No. 2:20-cv-06310, in the Eastern District of Pennsylvania (the “Action”), against various Defendants including Endo Health Solutions Inc., Endo International plc, and Endo Pharmaceuticals Inc. (collectively, “Endo”); DAVA Pharmaceuticals, LLC; Generics Bidco I, LLC; and Par Pharmaceutical Companies, Inc. and Par Pharmaceutical, Inc. (collectively, the “Endo/Par Defendants,” and together with CVS Pharmacy, Inc., the “Parties”);

WHEREAS, the Endo/Par Defendants deny Plaintiff’s allegations;

WHEREAS, Plaintiff continues to investigate potential collusive conduct as alleged in the complaint, including whether, and/or the extent to which, Endo participated in or is responsible for any collusive conduct alleged in the complaint, but Plaintiff is willing to take additional time to determine whether such claims should be asserted against Endo;

WHEREAS, counsel for the Endo/Par Defendants has represented that Par Pharmaceutical, Inc. is the proper entity to be named in the Action;

WHEREAS, the Parties have agreed to suspend and toll as of the date of the filing of the Action (December 15, 2020) any and all applicable limitations, laches, or repose periods that may apply to Endo Health Solutions Inc., Endo International plc, and Endo Pharmaceuticals Inc., with respect to the Action (the “Limitations Period”);

WHEREAS, with such protection against the statute of limitations and related principles, Plaintiff shall move forward at this time only with respect to its claims against DAVA Pharmaceuticals, LLC, Generics Bidco I, LLC, Par Pharmaceutical Companies, Inc., and Par Pharmaceutical, Inc., and it will dismiss without prejudice its claims in the Action against Endo Health Solutions Inc., Endo International plc, and Endo Pharmaceuticals Inc.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the undersigned counsel, on behalf of their respective clients, as follows:

1. All Limitations Periods, including statutes of limitations, statutes of repose and laches that had not expired as of December 15, 2020 are hereby suspended, stayed, or tolled, with respect to the claims set forth in the complaint against Endo Health Solutions Inc., Endo International plc, and Endo Pharmaceuticals Inc. Unless this Stipulation is extended by further agreement of the Parties, such tolling shall run from December 15, 2020 through December 15, 2022 (the “Tolling Period”).

2. All claims against Endo Health Solutions Inc., Endo International plc, and Endo Pharmaceuticals Inc. are hereby dismissed without prejudice, with each Party to bear its own costs and attorneys’ fees.

3. For purposes of the Action, Par Pharmaceutical, Inc. represents that it has possession, custody, or control of all existing documents and information related to the sale or marketing of generic medications in the United States by any of the Endo/Par Defendants.

4. Nothing in this Stipulation shall prevent any Party from commencing any civil action, arbitration, or proceeding against any other Party.

5. Other than as expressly provided, nothing in this Stipulation shall affect any claim or defense available to the Parties (including jurisdictional defenses), and this Stipulation shall not be deemed to revive any claim that is or was already barred as December 15, 2020. Nothing in this Stipulation, or the circumstances giving rise to the Stipulation, shall be construed as an acknowledgment by the Parties that a claim has or has not been barred by any applicable Limitations Period or any other defense, legal, equitable or otherwise, based upon the lapse or passage of time prior to execution of the Stipulation, or after the expiration of the Tolling Period. The Parties to this Stipulation hereby expressly reserve any and all claims, counterclaims, causes of action and defenses to the same which they may have, except as indicated above with respect to a defense based on any applicable Limitations Period. The Parties to this Stipulation hereby expressly reserve any and all rights with respect to party or third-party discovery in the Action.

6. The Parties agree that the doctrine of *contra proferentum* shall not apply and that this Stipulation shall not be construed against the Party that drafted it.

7. The Parties further agree that nothing contained in this Stipulation shall be considered, construed or deemed an admission of liability, fault or other wrongdoing by any Party, or an attempt to allocate liability or fault.

8. This Stipulation shall be binding upon and inure to the benefit of each of the Parties and their respective successors, assigns, affiliates, parents, subsidiaries, officers, directors, agents and other representatives.

9. This Stipulation shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without reference to its choice of law rules.

10. Each of the undersigned represents and warrants he or she is duly authorized to enter into this Stipulation and that each intends the Stipulation to be a valid and binding obligation, enforceable in accordance with its terms.

11. This Stipulation may be executed in multiple counterparts, and an electronically scanned (in either .pdf or .tiff format) signature will be considered an original signature for purposes of execution of this Stipulation. Each counterpart shall be deemed to be an original as against a Party whose signature appears thereon and all of which shall together constitute one and the same instrument.

12. This Stipulation contains the entire agreement of the Parties with respect to the issue of tolling any applicable Limitations Period.

13. Any amendment to this Stipulation (including any extension of this Stipulation or any Tolling Period) shall be invalid unless in writing, referencing this agreement, and signed by or on behalf of all Parties to which the amendment applies.

14. If any provision, covenant, condition or term of this Stipulation shall be held to be invalid or unenforceable, in whole or in part, such invalidity or unenforceability shall not affect the remainder of this Stipulation. The invalid or unenforceable provision, covenant, condition or term shall be substituted by a provision, covenant, condition or term which, according to the Parties' intention, achieves to the nearest extent possible the same effect as would have been achieved by the invalid provision, covenant, condition or term.

IT IS SO STIPULATED.

Dated: February 9, 2021

CONSTANTINE CANNON LLP

/s/ Ethan E. Litwin

Ethan E. Litwin

Matthew L. Cantor

335 Madison Avenue

New York, New York 10017

Tel: (212) 350-2700

Fax: (212) 350-2701

elitwin@constantinecannon.com

mcantor@constantinecannon.com

Allison F. Sheedy

1001 Pennsylvania Avenue, N.W.

Suite 1300N

Washington, D.C. 20004

Tel: (202) 204-3500

Fax: (202) 204-3501

asheedy@constantinecannon.com

Attorneys for Plaintiff CVS Pharmacy, Inc.

WILLIAMS & CONNOLLY LLP

/s/ John E. Schmidtlein

John E. Schmidtlein

Sarah F. Kirkpatrick

725 Twelfth St., NW

Washington, DC 20005

Tel: (202) 434-5000

Fax: (202) 434-5329

jschmidtlein@wc.com

skirkpatrick@wc.com

Attorneys for the Endo/Par Defendants